

**REMARKS / ARGUMENTS**

The present application includes pending claims 1-25, all of which have been rejected. By this Amendment, claims 2-6, 8-12, 14-18, 20-22, and 24-25 have been amended, as set forth above, to further clarify the language used in these claims and to further prosecution of the present application. The Applicant respectfully submits that the claims define patentable subject matter.

Claims 5-6 have been objected because of informalities. Claims 2-4, 8-10, and 14-16 have been rejected under 35 U.S.C. § 112, 2<sup>nd</sup> ¶, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter, which Applicant regards as the invention. Claims 1-25 stand rejected under 35 U.S.C. § 102(b) as being anticipated by USP № 6,445,688 ("Garces").

The Applicant respectfully traverses these rejections at least based on the following remarks.

**I.      Claim Objections**

Claims 5-6 have been objected because of informalities. The Applicant has amended claims 5-6, as set forth above, to overcome the objection.

**II. REJECTION UNDER 35 U.S.C. § 112**

Claims 2-4, 8-10, and 14-16 have been rejected under 35 U.S.C. § 112, 2<sup>nd</sup> ¶, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter, which Applicant regards as the invention.

The Applicant respectfully traverses this rejection, but nevertheless has amended claims 2-4, 8-10, and 14-16, as set forth above, to overcome this rejection.

In reference to claims 4, 10, and 16, the Applicant respectfully disagrees with the Examiner's statements in page 3 of the Office Action. More specifically, the Applicant points out that claims 4, 10, and 16 recite a list of items in the format "one or more of A, B, and/or C comprises ..." In other words, "one or more of" relates to all of the listed items, and not only to the first item, as suggested by the Examiner. Therefore, the Applicant submits that no further clarification is necessary with regard to claims 4, 10, and 16.

The Applicant submits that the rejection under 35 U.S.C. § 112, 2<sup>nd</sup> ¶ has been overcome and should be withdrawn.

**REJECTION UNDER 35 U.S.C. § 102**

**III. Garces Does Not Anticipate Claims 1-25**

The Applicant first turns to the rejection of claims 1-25 under 35 U.S.C. 102(b) as being anticipated by Garces.

With regard to the anticipation rejections under 102, MPEP 2131 states that “[a] claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” See Manual of Patent Examining Procedure (MPEP) at 2131 (internal citation omitted). Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” See *id.* (internal citation omitted).

**A. Rejection of Independent Claims 1, 7, 13, 19, and 23 under 35 U.S.C. § 102(b)**

With regard to the rejection of independent claim 1 under 35 U.S.C. § 102(b), the Applicant submits that Garces does not disclose or suggest at least the limitation of “receiving a response from said at least one of a plurality of access points, said response reporting a presence of at least one access device located within a coverage area of said at least one of a plurality of access points,” as recited by the Applicant in independent claim 1.

The Office Action states the following:

With regard to claims 1,7,13,19,23, Garces discloses

...

receiving a response (a sync response) from said at least one of a plurality of access points (WAP device L1130), the response

reporting a presence of at least one access device (indicating WAP device 130 can send information) located within a coverage area (see Fig. 1) of said at least one of a plurality of access points (WAP device L1130 after receipt of a broadcast sync packet 212 from remote device K1 110 sends back a sync response 216 indicating WAP device 130 can send information to remote device K1110, col. 4, lines 33-38);

See the Office Action at page 4. The Examiner is relying on col. 4, ll. 33-38 of Garces. Referring to FIGS. 1-2 of Garces, the Applicant points out that after the remote device K1 110 broadcasts a sync packet, the WAP device L1 130 (equated by the Examiner to Applicant's "said at least one of a plurality of access points") sends back to the remote device K1 110 a sync response 216 (equated by the Examiner to Applicant's "response"). However, the sync response 216 only indicates to the remote device K1 110, that the WAP device L1 130 can send information to the remote device K1 110. See Garces at col. 4, ll. 26-37. In this regard, the sync response 216 does not report back to the remote device K1 110 a presence of at least one access device located within a coverage area of the WAP device L1 130.

Therefore, the Applicant maintains that Garces does not disclose or suggest at least the limitation of "receiving a response from said at least one of a plurality of access points, said response reporting a presence of at least one access device located within a coverage area of said at least one of a plurality of access points," as recited by the Applicant in independent claim 1.

Accordingly, independent claim 1 is not anticipated by Garces and is allowable. Independent claims 7, 13, 19, and 23 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 7, 13, 19, and 23 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

**B. Rejection of Dependent Claims 2-6, 8-12, 14-18, 20-22, and 24-25**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 7, 13, 19, and 23 under 35 U.S.C. § 102(b) as being anticipated by Garces has been overcome and request that the rejection be withdrawn. Additionally, claims 2-6, 8-12, 14-18, 20-22, and 24-25 depend from independent claims 1, 7, 13, 19, and 23, respectively, and are, consequently, also respectfully submitted to be allowable.

Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 1-25.

**CONCLUSION**

Based on at least the foregoing, the Applicant believes that all claims 1-25 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

Date: 20-OCT-2008

/Ognyan I. Beremski/

Ognyan Beremski, Esq.  
Registration No. 51,458  
Attorney for Applicant

MCANDREWS, HELD & MALLOY, LTD.  
500 WEST MADISON STREET, 34TH FLOOR  
CHICAGO, ILLINOIS 60661  
(312) 775-8000

/ OIB